

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

| | | |
|------------------------------|---|----------------------------|
| NUANCE COMMUNICATIONS, INC., |) | |
| |) | |
| Plaintiff, |) | |
| |) | C.A. No. _____ |
| v. |) | |
| |) | |
| VLINGO CORP., |) | JURY TRIAL DEMANDED |
| |) | |
| Defendant. |) | |

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Nuance Communications, Inc. ("Nuance") hereby pleads the following claims for patent infringement against Defendant Vlingo Corp. ("Vlingo"):

THE PARTIES

1. Plaintiff Nuance is a corporation organized and existing under the laws of the State of Delaware, having its principal place of business at 1 Wayside Road, Burlington, Massachusetts 01803.

2. On information and belief, Vlingo is a corporation organized and existing under the laws of the State of Delaware, having its principal place of business at 17 Dunster Street, Cambridge, Massachusetts 02138.

JURISDICTION AND VENUE

3. This is an action for patent infringement under the Patent Laws of the United States of America, 35 U.S.C. §§ 1 *et seq.*, including 35 U.S.C. § 271. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

4. This Court has personal jurisdiction over Vlingo. Vlingo is a Delaware corporation. Moreover, Vlingo has done business generally in this judicial district, has committed and continues to commit acts of patent infringement in this judicial district, and has

harm and continues to harm Nuance in this judicial district by, among other things, using, distributing, selling, and offering for sale infringing voice recognition products and services in this judicial district.

5. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(a) and 1400(b) because Vlingo is a Delaware corporation and hence resides in this judicial district. Moreover, Vlingo is subject to personal jurisdiction and has, among other things, done substantial business in this district and has committed acts of infringement in this judicial district.

FIRST CLAIM FOR RELIEF FOR PATENT INFRINGEMENT
Infringement of U.S. Patent No. 7,315,818 B2

6. Nuance hereby incorporates the allegations of Paragraphs 1 through 5 as if fully set forth herein.

7. United States Patent No. 7,315,818 B2 (“the ‘818 patent”), entitled “Error Correction in Speech Recognition,” was duly and legally issued on January 1, 2008. Nuance is the owner by assignment of all right, title and interest in and to the ‘818 patent. A copy of the ‘818 patent is attached as Exhibit A.

8. Nuance is informed and believes, and thereon alleges, that Vlingo has infringed and is currently infringing the ‘818 patent in violation of 35 U.S.C. § 271 by, among other things, making, using, selling, offering to sell, and/or importing its speech recognition products and services within this judicial district and elsewhere in the United States, without authority or license from Nuance. Such products and services include, without limitation, the products and services Vlingo is supplying to Yahoo! oneSearch. Vlingo also has infringed and continues to infringe the ‘818 patent by actively inducing infringement and/or contributorily infringing the ‘818 patent. Vlingo is therefore liable to Nuance under 35 U.S.C. § 271.

9. On information and belief, Vlingo's infringement of the '818 patent is and continues to be willful and deliberate, entitling Nuance to treble damages under 35 U.S.C. § 284.

10. Vlingo's acts of infringement have caused damage to Nuance, and Nuance is entitled to recover from Vlingo the damages sustained as a result of Vlingo's wrongful acts in an amount yet to be determined and subject to proof at trial.

11. Unless enjoined, Vlingo's infringement of Nuance's rights under the '818 patent will continue to damage Nuance, causing Nuance irreparable injury as a direct and proximate result of Vlingo's conduct. As a result, and pursuant to 35 U.S.C. § 285, Nuance is entitled to an injunction against further infringement.

SECOND CLAIM FOR RELIEF FOR PATENT INFRINGEMENT
Infringement of U.S. Patent No. 5,799,279

12. Nuance hereby incorporates the allegations of Paragraphs 1 through 5 as if fully set forth herein.

13. United States Patent No. 5,799,279 ("the '279 patent"), entitled "Continuous Speech Recognition of Text and Commands," was duly and legally issued on August 25, 1998. Nuance is the owner by assignment of all right, title and interest in and to the '279 patent. A copy of the '279 patent is attached as Exhibit B.

14. Nuance is informed and believes, and thereon alleges, that Vlingo has infringed and is currently infringing the '279 patent in violation of 35 U.S.C. § 271 by, among other things, making, using, selling, offering to sell, and/or importing its speech recognition products and services within this judicial district and elsewhere in the United States, without authority or license from Nuance. Such products and services include, without limitation, the products and services Vlingo is supplying to Yahoo! oneSearch. Vlingo also has infringed and

continues to infringe the '279 patent by actively inducing infringement and/or contributorily infringing the '279 patent. Vlingo is therefore liable to Nuance under 35 U.S.C. § 271.

15. On information and belief, Vlingo's infringement of the '279 patent is and continues to be willful and deliberate, entitling Nuance to treble damages under 35 U.S.C. § 284.

16. Vlingo's acts of infringement have caused damage to Nuance, and Nuance is entitled to recover from Vlingo the damages sustained as a result of Vlingo's wrongful acts in an amount yet to be determined and subject to proof at trial.

17. Unless enjoined, Vlingo's infringement of Nuance's rights under the '279 patent will continue to damage Nuance, causing Nuance irreparable injury as a direct and proximate result of Vlingo's conduct. As a result, and pursuant to 35 U.S.C. § 285, Nuance is entitled to an injunction against further infringement.

THIRD CLAIM FOR RELIEF FOR PATENT INFRINGEMENT
Infringement of U.S. Patent No. 6,871,179 B1

18. Nuance hereby incorporates the allegations of Paragraphs 1 through 5 as if fully set forth herein.

19. United States Patent No. 6,871,179 B1 ("the '179 patent"), entitled "Method and Apparatus for Executing Voice Commands Having Dictation as a Parameter," was duly and legally issued on March 22, 2005. Nuance is the owner by assignment of all right, title and interest in and to the '179 patent. A copy of the '179 patent is attached as Exhibit C.

20. Nuance is informed and believes, and thereon alleges, that Vlingo has infringed and is currently infringing the '179 patent in violation of 35 U.S.C. § 271 by, among other things, making, using, selling, offering to sell, and/or importing its speech recognition products and services within this judicial district and elsewhere in the United States, without authority or license from Nuance. Such products and services include, without limitation, the

products and services Vlingo is supplying to Yahoo! oneSearch. Vlingo also has infringed and continues to infringe the '179 patent by actively inducing infringement and/or contributorily infringing the '179 patent. Vlingo is therefore liable to Nuance under 35 U.S.C. § 271.

21. On information and belief, Vlingo's infringement of the '179 patent is and continues to be willful and deliberate, entitling Nuance to treble damages under 35 U.S.C. § 284.

22. Vlingo's acts of infringement have caused damage to Nuance, and Nuance is entitled to recover from Vlingo the damages sustained as a result of Vlingo's wrongful acts in an amount yet to be determined and subject to proof at trial.

23. Unless enjoined, Vlingo's infringement of Nuance's rights under the '179 patent will continue to damage Nuance, causing Nuance irreparable injury as a direct and proximate result of Vlingo's conduct. As a result, and pursuant to 35 U.S.C. § 285, Nuance is entitled to an injunction against further infringement.

PRAYER FOR RELIEF

WHEREFORE, Nuance prays for the entry of judgment in favor of Nuance as follows:

A. That Vlingo has infringed, induced others to infringe, and/or committed acts of contributory infringement of one or more claims of the '818, '279, and '179 patents (the "Patents-In-Suit");

B. That Vlingo, and its affiliates, subsidiaries, directors, officers, employees, attorneys, agents and all persons in active concert or participation with any of them be preliminarily and permanently enjoined from further acts of infringement, inducing infringement, or contributory infringement of the Patents-In-Suit;

C. That Vlingo pay Nuance damages in an amount adequate to compensate Nuance for Vlingo's infringement of the Patents-In-Suit, but in no event less than a reasonable royalty, together with interest and costs under 35 U.S.C. § 284;

D. That Vlingo be ordered to provide an accounting;

E. That the infringement be adjudged willful and that the damages be increased under 35 U.S.C. § 284 to three times the amount found or measured;

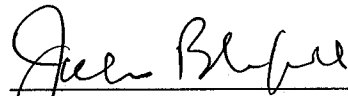
F. That this be adjudged an exceptional case and that Nuance be awarded its attorneys' fees pursuant to 35 U.S.C. § 285; and

G. That Nuance be awarded such other and further relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Nuance hereby demands a trial by jury on all issues so triable.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP



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